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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,563	04/09/2004	Lloyd P. Kissick	597-P-4	1276 ✓
20152	7590	08/09/2006	EXAMINER KAYES, SEAN PHILLIP	
TOD R NISSLE PO BOX 55630 PHOENIX, AZ 85078			ART UNIT 2841	PAPER NUMBER

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/821,563	Applicant(s) KISSICK, LLOYD P.	
	Examiner Sean Kayes	Art Unit 2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 3 is objected to because of the following informalities: The intended meaning of "a location at one of a pair comprising said inner end, and said outer end" is unclear. Please rewrite this section to clarify the desired meaning. Appropriate correction is required.

Drawings

2. Figures 1-4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kissick (US 4658922.)

5. With respect to claim 1, Kissick discloses a balance of precision including an elongate base having a first end and a second end (column 5 line 5), and a floor (column 5 lines 6); at least one auxiliary weight (column 3 lines 39-42), a fulcrum connected to said base and having an elongate edge positioned a distance above said floor of said base (column 5 lines 10-12); an elongate beam assembly positioned on said fulcrum for turning about said fulcrum edge, said beam assembly including a body member positioned over and including an elongate groove contacting said fulcrum edge to permit said member to turn about said edge (column 5 lines 13-18), a pair of spaced apart support arms attached to and outwardly extending from said member and each having an elongate upper edge, an outer end, and a notch formed in said outer end thereof (column 5 lines 19-24), a symmetrical pan having an upper lip, and a pair of ears extending outwardly from said pan, each ear normally riding in one of said notches such that said ear can turn in said notch and support said pan above said floor when said lever assembly is in equipoise (column 5 lines 25-31), a first graduated scale arm (38 figure 4) attached to and outwardly extending from said body member and having an outer end generally positioned between said fulcrum and said wall and adjacent and level with said upper edge of said wall when said beam assembly is in equipoise (column 5 lines 32-37), said scale arm including a measurement scale and a scale weight (41 figure 4) slidably mounted thereon for balancing said beam assembly when said beam assembly is in equipoise (column 5 lines 38-44), said measurement scale

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comprising a series of marked off spaces used to measure weight (38 figure 4), an aperture formed in said scale to receive removably said auxiliary weight (column 3 lines 39-42) and a bottom (18 figure 3.)

Kissick does not disclose wherein the aperture is formed in said graduated scale arm. Kissick does disclose the apertures being formed adjacent to the graduated scale arm.

At the time of the invention it would have been obvious to one skilled in the art to form the apertures in the graduated scale arm to minimize the number of parts of the scale.

The suggestion or motivation for doing so would be to simplify the design and/or operation of the device by reducing the number of parts.

6. Claims 2-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kissick (US 4658922) in further view of Weber (US 1639120.)

7. With respect to claim 2 Kissick (as modified above) teaches all the limitations of claim 2 except wherein the scale weight includes a detent shaped to fit around said auxiliary weight.

The use of detents to catch or lock movement of a scale weight is well known as evidenced by Weber.

At the time of the invention it would have been obvious to one skilled in the art to make the scale weight such that it included a detent for preventing movement beyond the auxiliary weight.

The suggestion or motivation for doing so would be to hold the scale weight in place when against the auxiliary weight.

8. With respect to claim 3 Kissick discloses a balance of precession including an elongate base (25 figure 1) having a first end and a second end; and a floor; at least one auxiliary weight (43 figure 4); a fulcrum (26 and 27 figure 3) connected to said base and having an elongate edge positioned a distance above said floor of said base; an elongate beam assembly positioned on said fulcrum for turning about said fulcrum edge, said beam assembly including a body member (26 and 27 figure 3) positioned over an including on elongate groove contracting said fulcrum edge to permit said member to turn about said edge, a pair of spaced apart support arms (31 and 32 figure 4) attached to and outwardly extending from said member and each having an elongate upper edge, an outer end, and a notch formed in said outer end thereof, a symmetrical pan (42 figure 4) having an upper lip, and a pair of ear extending outwardly from said pan, each ear normally riding in one of said notches such that said ear can turn in said notch and support said pan above said floor when said level assembly is equipoise, a first graduated scale arm (38 figure 4) attached to and outwardly extending from said body member and having a pair of edges, an inner end adjacent said body, and an outer end generally positioned between said fulcrum and said wall and adjacent and level with said upper edge of said wall when said beam assembly is in equipoise, said graduated scale arm including a measurement scale comprising a series of marked off spaces used to measure weight, a scale weight (41 figure 4) slidably mounted thereon

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to slide along said edges to balance said beam assembly when said beam assembly is in equipoise, and a bottom; and a second scale arm (39 figure 4) attached to an outwardly extending from said body member and having at least one location for removably mounting a supplemental weight.

Kissick does not disclose wherein the aperture is formed in said graduated scale arm at two points. Kissick does disclose the apertures being formed adjacent to the graduated scale arm.

At the time of the invention it would have been obvious to one skilled in the art to form the apertures in the graduated scale arm.

The suggestion or motivation for doing so would be to provide additional space for placing auxiliary weights, thus increasing the maximum weight that the device could measure.

Kissick additionally does not disclose wherein the scale weight includes a detent shaped to fit around said auxiliary weight.

The use of detents to catch or lock movement of a scale weight is well known as evidenced by Weber.

At the time of the invention it would have been obvious to one skilled in the art to make the scale weight such that it included a detent for preventing movement beyond the auxiliary weight.

The suggestion or motivation for doing so would be to hold the scale weight in place when against the auxiliary weight.

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9. With respect to claim 4-6 Kissick teaches the balance of claims 1-3 wherein said scale weight (41) includes a pointer (50) movable into registration with selected point on said measurement scale when said scale weight (41) is slidably moved along said graduated scale arm.

10. With respect to claims 7-8 Kissick teaches the balance of claims 5 and 6 wherein said portion of said scale weight comprises said pointer.

11. With respect to claims 9-11 Kissick teaches the balance of claims 1-3 wherein when said auxiliary weight is mounted in said aperture, a foot portion (43 figure 3) of said auxiliary weight extends through said aperture and outwardly from said bottom of said graduated scale arm (figure 3 shows that the lower extent of the auxiliary weight is longer than the thickness of the scale arms 38 and 39. As modified in the rejection to claim 1 Kissick's auxiliary weight would in fact protrude beyond the other side of the graduated scale arm.) said scale weight includes a bridging section extending over and beneath said bottom of said graduated scale arm; and a detent formed in said bridging section and shaped to fit, when said auxiliary weight is mounted at said location, at least partially around said foot portion such that a portion of said scale weight can slide along said graduated scale arm past at least a portion of said auxiliary weight (see rejection to claim 2.)

Response to Arguments

12. Applicant's arguments with respect to claims 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

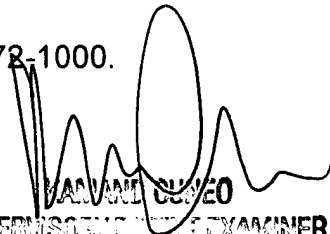
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Kayes whose telephone number is (571) 272-8931. The examiner can normally be reached on 8:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kammie Cuneo can be reached on (571) 272-1957. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SK
8/1/2006



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